

## Hans Følsgaard - Terms and Conditions ("General Terms and Conditions")

### 1. Applicability

1.1 These General Terms and Conditions shall apply when the parties ("Parties") – the purchaser ("Purchaser") and the supplier – one or more companies in the Hans Følsgaard Group ("Supplier") – have agreed to this in writing or have otherwise entered into an agreement according to which the General Terms and Conditions shall apply. Deviations from these General Terms and Conditions must be agreed upon in writing to become effective. Thus, the Purchaser's delivery terms must be expressly agreed upon in writing to become effective.

1.2 Hans Følsgaard Group means all companies in which Hans Følsgaard A/S directly or indirectly owns the majority of the shares.

1.3 In these General Terms and Conditions, "Product(s)" shall mean the products which the Supplier undertakes to sell to the Purchaser, as detailed in an Agreement as defined in clause 1.4.

1.4 In these General Terms and Conditions "Agreement" shall mean every individual agreement between the Purchaser and the Supplier regarding the sale and purchase of Products. These General Terms and Conditions shall constitute an integral part of any such Agreement.

The Agreement, including these General Terms and Conditions confers rights and obligations on the Parties only, and Purchaser is accordingly not entitled to assign its rights and obligations under the Agreement to a third party.

### 2. Blueprints, descriptions, other documents, and Software

2.1 Information in marketing material, price lists and other product information is not binding to the Parties unless an Agreement expressly refers to such information.

2.2 Blueprints, descriptions, software and other technical documentation which has been provided to a Party by the other Party may not be used for any other purpose than the purpose for which it was provided. The material may not be copied or reproduced in any other way without the consent of the providing Party.

2.3 If it is agreed by the Parties, the Supplier shall no later than upon delivery, without additional compensation, provide the Purchaser with one, or the otherwise agreed amount of copy(ies) of the blueprints and/or

other technical documentation, which is provided by the Supplier to enable the Purchaser to conduct assembly, commissioning, operating and maintenance (including recurring repairs) of all parts of the Product. Upon agreement to that effect, the Supplier shall provide other documentation, such as measuring protocols and certificates. The Supplier is entitled to compensation for providing such documentation. The Supplier is not obliged to provide blueprints or other documentation for the manufacturing of a Product or spare parts. The Supplier may perform the above obligations by making the relevant documentation available on the Internet.

### 3. Testing prior to delivery (Delivery Test)

3.1 Agreed delivery tests shall be conducted at the premises of the Purchaser at the Purchaser's expense, except for with respect to the Supplier's participation.

3.2 If the Parties have not specifically agreed on technical requirements and the manner of conducting the delivery test, the delivery test shall be conducted in accordance with industry practice of the relevant industry in the Supplier's country. The Supplier shall draw up a record of the delivery test and shall provide said record to the Purchaser. The Purchaser's approval of the delivery test shall be reflected in the record. If the Purchaser has not raised legitimate objections in writing within five (5) days of a conducted delivery test, the Purchaser shall be considered to have accepted the delivery test. If the Product is not in conformity with the Agreement, the Supplier shall urgently see to it that necessary corrections are carried out, provided the non-conformity is not without significance for the use of the Product. Following the carrying out of such corrections, the Purchaser is entitled to a new delivery test.

3.3 The Purchaser must notify if the Delivery Test is approved or not no later than five (5) days after the Delivery Test has taken place. The Delivery Test must be approved in the delivery record. The Delivery Test is deemed to have been approved in whichever of the following circumstances occur first:

- a) The Purchaser approves the Delivery Test
- b) The Purchase should reasonably have approved the Delivery Test
- c) Five (5) days have passed since the Delivery Test was carried out and the Purchaser has not raised any reasoned objections to the Delivery Test
- d) The Product can be used as intended.

3.4 The question of whether or not the Purchaser has approved the Delivery Test has no influence on the Purchaser's obligation to pay.

#### **4. Prices and Payment**

- 4.1. The price of the purchase shall be set to the price which the Supplier applies at the time of receiving the order from the Purchaser unless the Parties have expressly agreed otherwise. Unless otherwise expressly agreed, the prices are set exclusive of VAT and other public charges, which shall be paid by the Purchaser. Upon variations in exchange rates exceeding 2 % up to the invoicing of the Product, the Supplier may adjust the indicated prices towards the Purchaser. The Supplier's right to adjust the prices in the event of exchange rate variations shall also apply when a specific price has been agreed upon by the Parties.
- 4.2. Payment shall be made upon invoicing and no later than the date set forth in each invoice, unless otherwise expressly agreed. The Purchaser shall under no circumstances, including in the event of delays or deficiencies, be entitled to withhold payment. Upon delays in payment, interest on overdue payments shall accrue from the maturity date, with the reference rate applicable at any time, designated the "main refinancing operations" (MRO) of the European Central Bank" plus eight (8) percentage points. If the Purchaser does not pay on time, the Supplier may further, after having given the Purchaser notice hereof in writing, suspend its performance of an Agreement until payment has been made.
- 4.3. If it appears after the conclusion of the Agreement that the conduct or the financial circumstances of the Purchaser give the Supplier reason to anticipate that the Purchaser will not make a full and timely payment, the Supplier may suspend the performance of the Agreement and demand advance payment or adequate security to resume the performance. If such circumstances are discovered after the Product has been shipped, the Supplier may prevent the delivery of the Product. The Supplier shall urgently notify the Purchaser in writing of its decision to suspend the performance of the Agreement.
- 4.4. The Supplier may cancel the Agreement if the Purchaser has not made payment within thirty (30) days after the payment date. In addition to the right to interest on overdue payments, the Supplier shall in such case be entitled to recover damages for losses which it incurs arising out of Purchaser's non-payment. The damages payable, except for accrued interest, shall be limited to the agreed price for the Product/Products.

#### **5. Delivery and delivery time**

- 5.1 Delivery clauses shall be interpreted in accordance with INCOTERMS in the wording of the most recent version applicable on the date the Agreement was entered into. If no other specific delivery clause has been agreed upon, delivery "Ex Works" shall apply.
- 5.2 If the delivery is to be made within a certain term, the term shall begin on the date the Agreement was entered into unless otherwise expressly agreed. However, the delivery term shall under no circumstances begin before the Supplier has received (i) payment, if such is due prior to the commencement of manufacturing of the Product or has otherwise been agreed upon, and (ii) required licenses, authorizations, technical data and instructions.
- 5.3 If the delay is caused by a circumstance which, pursuant to clause 11.1, constitutes grounds for relief or by any action or omission by the Purchaser, the delivery term shall be extended for a period which is reasonable considering the circumstances. If the grounds for relief occur after the end of the agreed delivery term, the term shall nonetheless be extended.
- 5.4 If the Supplier does not deliver the Product in accordance with clause 5.2, the Purchaser may demand delivery within a reasonable final deadline, by giving written notice to the Supplier. Should the Supplier not deliver within such deadline, the Purchaser is entitled to cancel the Agreement by giving the Supplier written notice to that effect.
- 5.5 If the Purchaser cancels the Agreement under 5.4, it is entitled to compensation from the Supplier for the direct additional documented expenditures in procuring a corresponding Product from someone else. However, the right to such compensation is limited to 7.5 % of the price of the Product. The fact that more than one company in the Hans Følsgaard Group acts as Supplier according to an Agreement does not entitle the Purchaser to receive the abovementioned compensation for expenditures in procuring a corresponding product more than once. If the Purchaser does not cancel the Agreement, the Purchaser is not entitled to any compensation for the Supplier's delay.
- 5.6 Should the Purchaser fail to receive the Product on the agreed date, despite Supplier's offering delivery in accordance with the Agreement, payment shall nevertheless be made as if the Product was delivered in accordance with the Agreement, and the Purchaser shall compensate the Supplier for its direct additional expenditures, including expenditures for transportation, storage, legal fees etc. caused by such failure of the Purchaser.

#### **6. Liability for non-conforming products, limitation of liability**

- 6.1 A Product which deviates from the agreed specification shall be considered non-conforming (in Danish: mangelfuldt) unless the deviation is without significance for the intended use of the Product. However, as regards delivery of cables, the

Purchaser must accept deviations of 10% delivery below or over the agreed specification/ quantity and such deliverable can be invoiced by the Supplier. The Supplier's liability for other non-conformities (in Danish: mangler) is limited to material non-conformities caused by defective construction, materials, or manufacturing.

- 6.2 Information regarding the use of the Product or other information about the Product which is not expressly part of the agreed specification and which is provided by the Supplier, regardless of the form in which the information is provided, shall only be regarded as recommendations or general information. The Supplier is not liable for such information.
- 6.3 The Supplier is only liable for non-conformities which manifest within one (1) year from the day that the risk for the Product passed to the Purchaser ("Claims period"), and with respect to which Purchaser gives notice to Supplier within the claims period. Notwithstanding the just mentioned, the Supplier's liability for non-conformities is limited to failures occurring within 1,760 operating hours or the expected operating time, if the expected operating time is less than 1,760 operating hours. The claims period does not include wear components which normally have a durability of

less than one year. The Supplier is not liable for defects which are caused by inaccurate, ambiguous, or incomplete information from the Purchaser. Furthermore, the Supplier is not liable for failures which are caused by circumstances which occur after the risk for the Product has passed to the Purchaser, such as, but not exclusively, failures caused by ordinary wear or deterioration. Should the Purchaser make a claim of non-conformity in a Product within the claims period as described above, the Purchaser must (if necessary conditioned on their signing a nondisclosure agreement) give the Supplier and possible third parties retained by it access to the application or the site for purposes of carrying out an examination of the Product subject to the claim, including on how the Product has been used. In any case such access will be granted to the Supplier and any third parties retained by the Supplier at no cost to the Supplier. Similarly, Purchaser is under an obligation to place all relevant data in its possession related to the Product and its use (including but not limited to Purchaser's or a third party's measurements, drawings, designs, operation approvals, data sheets etc. which can contribute to identifying the cause of the failure) at the Supplier's disposal for purposes of its examination.

- 6.4 The Supplier undertakes, at its own discretion, during the Claims period, without a right to remuneration, to deliver a new Product as replacement for a non-conforming Product, or to remedy the non-conformity.

The Supplier is not liable to pay for replacement media or replacement fluids, such as e.g. refrigerating media. Remedying may occur either at the Supplier's premises or at the Purchaser's premises, depending on which the Supplier determines appropriate. Replacement products or replacement parts, which the Supplier has provided to the Purchaser, are subject to the Claims period set out in clause 6.3. Should the Supplier claim ownership of a Product or part of a Product which has been replaced, the title of ownership to such Product or part of a Product shall pass to the Supplier. Possible demolition costs shall be paid by the Purchaser.

- 6.5 The Purchaser shall bear the cost and risk of transportation of a deficient Product or part of a Product to the Supplier. The Supplier shall bear the cost and risk of transportation of the replacement product or part of a Product to the place of delivery. Should the Supplier choose to remedy the Product at the premises of the Purchaser, the Purchaser shall pay travel costs and allowance for expenses for the travel and work time of the Supplier's staff. Further, the Purchaser shall bear the additional costs which arise from the Product being situated somewhere other than at the place of delivery.
- 6.6 If the Supplier does not deliver a replacement product or remedy the deficiency within reasonable time after the Purchaser has complained in writing, the Purchaser may cancel the Agreement in respect of the deficient Product by written notice to that effect. Upon cancelling the Agreement, the Purchaser is entitled to compensation from the Supplier for its documented direct additional expenditures for procuring a corresponding product from someone else, however not more than 7.5 % of the price of the Product. The fact that more than one company in the Hans Følsgaard Group acts as Supplier according to an Agreement does not entitle the Purchaser to receive the abovementioned compensation for expenditures in procuring a corresponding product more than once.
- 6.7 The Supplier shall be considered to have fulfilled its obligations under this Agreement by delivering an appropriately repaired or replaced Product or Part of a Product to the Purchaser. The Purchaser shall bear the costs for work and additional expenditures for operation on something other than the Product upon dismounting or installing the Product or the part of a Product.
- 6.8 The Purchaser shall examine the Product in accordance with good industry practices immediately after delivery.
- 6.9 The Purchaser may not invoke non-conformities which have not been notified to the Supplier in writing within 15 days from the day the Purchaser notices or ought to have noticed the non-conformity, and in no case later than the time set out in clause 6.3 above. Should the Supplier not be liable for the non-conformity, the Supplier is entitled to compensation for the costs which have been caused by the claim.
- 6.10 Instead of remedying the non-conformity or delivering a replacement product, the Supplier may choose to repay the purchase price, whereupon the Purchaser shall return the

Product in a substantially unchanged condition. If this is not possible, the Supplier may deduct an amount corresponding to the value of what has been bestowed on the Purchaser.

## **7. Liability for damage to property and personal injury, limitation of liability**

7.1 The Purchaser shall indemnify and hold harmless the Supplier, to the extent that the Supplier is imposed liability for third party damages or losses for which the Supplier is not liable pursuant to clauses 7.1, 7.2 and 8.4. The Purchaser shall hold harmless the Supplier for any and all loss, claims, damages and other expenses of any kind (including but not limited to legal fees) that occurs due to any violation of the Purchaser of any provision in this Agreement or negligence, misconduct, or acts of Purchaser, its officers, employees, agents or contractors.

7.2 The Supplier is not responsible for property damage caused by the Product to real estate or property if the damage occurs while the Product is in the Purchaser's possession or on products that are produced by the Purchaser or on products in which the Purchaser's products are included or for damages to real estate or damage to property caused by these products.

7.3 Both Parties are obliged to comply with summons to a court or arbitration board which processes claims of damages against the other Party if the claim is based on a damage or loss which is allegedly caused by a Product. However, the relationship between the Parties shall always be governed by the Agreement.

7.4 Both Parties shall promptly notify the other Party in writing of any third-party claim relating to this clause 7.

7.5 The Supplier's liability for damage caused by a Product to natural persons which belongs to the Purchaser, or a third party shall under all circumstances be limited to EUR 500,000. The Purchaser shall indemnify and hold harmless the Supplier for all liability exceeding said amount.

## **8. Liability for damages and limitations of liability**

8.1 In case of a delay or non-conformity, the Purchaser is entitled to damages pursuant to clause 8.4.

8.2 If the Supplier has developed a product in collaboration with the Purchaser, under an Agreement between the Parties and at the Supplier's own cost, the Supplier is in no regard responsible for any delay or non-conformity of the Product. Further, the Supplier is in no regard responsible for any delay or non-conformity of a Product which the Supplier has lent out or transferred to the Purchaser without compensation.

8.3 The Supplier shall under no circumstances be liable for loss of production, loss of profits or any other consequential, direct, or indirect economic loss on the part of Purchaser.

8.4 The Supplier's total liability towards the Purchaser in relation to all direct loss, damages, claims, compensation, rulings, expenses (including but not limited to legal fees), fines and decisions imposed as a result of a violation of this Agreement, shall never exceed 7.5 % of the purchase price for the Product. The limitation of liability shall apply to any remedy that the Purchaser may invoke and any obligation imposed on the Supplier (including but not limited to the Supplier's obligation to deliver a new Product or to remedy the non-conformity as set out in clause 6.4. The limitation of liability shall remain in full force and effect upon cancellation of the Agreement. The fact that more than one company in the Hans Følsgaard Group acts as Supplier according to an Agreement does not entitle the Purchaser to receive the above-mentioned compensation for expenditures in procuring a corresponding product more than once. The limitation of liability in this clause 8.4 also applies to clause 7 "Liability for damage to property and personal injury, limitation of liability".

8.5 The Purchaser may not invoke any other remedies against the Supplier than those expressly set out in the Agreement. However, such limitation does not apply to damages incurred by Purchaser due to Supplier's grossly negligent acts or omissions.

## **9. Retention of title to Products**

9.1 The Product(s) shall remain the property of the Supplier until it/they has/have been fully paid, to the extent this ownership reservation is valid in the jurisdiction where the Product(s) is/are situated. The Purchaser is not entitled, without the consent of the Supplier to assign the Product(s) to a third party until it/ they have been fully paid. Without the written consent from the Supplier, the Purchaser may not transfer any rights under this Agreement to any third party. If Products are bought for purposes of Purchaser's resale of these, including by incorporating these as components of Purchaser's products, Supplier, until the delivery of the Products is entitled to demand that the requirements for retaining title to property in consignment sales are complied with, including without limitations that the Products must be stored separately from Purchaser's other stock, that Purchaser must pay for the Products as they are resold or incorporated in Purchaser's Products, and that the Supplier must have access to verify that such demand is complied with.

## **10. Confidentiality**

10.1 Neither Party may, without the other Party's approval, provide third parties with documents or otherwise disclose information of a confidential character about the Agreement or the other Party, unless disclosure is necessary for the performance of the Agreement. The Parties shall enter into non-disclosure agreements with its employees or take other appropriate measures to ensure that confidentiality is maintained. The confidentiality undertaking does not apply to information, which a Party can demonstrate was duly brought

to its notice other than by the Agreement, or which is commonly known. The confidentiality undertaking shall remain in full force and effect after the termination of this Agreement.

## **11. Grounds for relief**

- 11.1 A circumstance which prevents or substantially obstructs the performance of any of the Parties' obligations under the Agreement, and which was beyond the Party's control, including but not limited to stroke of lightning, fire, earthquake, flooding, war, mobilization or major military conscription, uprising or riot, requisition, seizure, currency restriction, epidemic, public regulation, fuel restrictions, general scarcity of transportation or energy, or strike, blockade, lock-out or other labor dispute, regardless of whether the Party is a party to such dispute, and non-conformities or delays in deliveries from sub-suppliers caused by the above mentioned circumstances, shall constitute grounds for relief which entitles the relevant Party to appropriate time extensions and relief of liability from conditional fines and other sanctions. A Party shall notify the other party in writing without unreasonable delay from the day the Party realized or ought to have realized the grounds for relief.
- 11.2 If the performance of the Agreement is delayed for more than six (6) months due to a circumstance set out in clause 11.1, each Party shall be entitled to withdraw from the Agreement and shall not be liable to compensate the other Party for such withdrawal.
- 11.3 Supplier shall similarly be entitled to invoke the protection of clauses 11.1 and 11.2 if the mentioned circumstances, while not preventing or substantially obstructing its performance, cause its costs of fulfilling the Agreement to increase by more than 4 %.
- ## **12. Export and import licenses, certification etc.**
- 12.1 The Supplier's obligation to deliver a Product is contingent on obtaining and maintaining adequate export, import and re-export licenses. Should such licenses not be obtained or are valid licenses revoked without the Supplier's negligence, the Supplier is relieved from its obligation to deliver the Product, and the Purchaser shall not be entitled to direct any claim against the Supplier on such occasion.
- 12.2 The Purchaser undertakes to comply with any applicable regulations and, to the extent necessary, co-operate in the obtaining of export and import licenses for a purchased Product, and upon a possible re-export of said Product or other product in which the purchased Product is integrated, to obtain any necessary authorization.
- 12.3 A possible certification of the Product shall be paid by the Purchaser.

## **13. Intellectual property rights**

- 13.1 "Intellectual Property Rights" shall mean all present or future intellectual property rights of any kind anywhere in the world (whether legal or economic, registered or unregistered) including but not limited to copyrights, data base rights, drawings, design rights, trademark rights, patent rights, utility model rights, topography rights, know-how, trade secrets, company names, and product protection awarded under marketing practices laws.
- 13.2 Unless the Parties agree otherwise, each Party or such Party's licensors shall retain sole ownership of all technology and Intellectual Property Rights vested with them prior to the Agreement. As part hereof, Supplier shall remain the sole owner of any and all Intellectual Property Rights imbedded in the Product(s). Further, any Intellectual Property Rights licensed by one Party to the other Party under the Agreement may not be reassigned to a third party without the prior written consent of the Party which granted the license. For avoidance of doubt, the aforementioned shall not affect the Purchaser's acquisition of ownership to the Product(s) purchased and consequently the Purchaser's entitlement to use and redistribute the Products without limitations.
- 13.3 The Supplier shall retain all Intellectual Property Rights imbedded in or related to Products developed under the Agreement, whether the development was carried out by the Supplier or jointly by the Parties.

## **14. Lapse of claims**

- 14.1 Claims against the Supplier shall be barred unless an arbitration procedure pursuant to 15.2 has been initiated within two years from the delivery of the relevant Product.

## **15. Governing law and dispute resolution**

- 15.1 This Agreement shall be governed by Danish substantive law, with the exception of its rules on the choice of law.
- 15.2 Disputes concerning the Supplier's claims for compensation in the event of the Purchaser's failure of payment may, at the choice of Supplier, be settled by the competent courts in the court district of Supplier's principal place of business. In all other instances, disputes arising out of or in connection with this Agreement shall be finally settled by arbitration proceedings administered by the Danish Institute of Arbitration ("Voldgiftsinstituttet"), in accordance with the Rules of Arbitration adopted by the Board of the Danish Institute of Arbitration. The arbitration proceedings shall take place in Copenhagen.

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